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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,184	09/25/2003	Eduard K. de Jong	SUN-040027	9837
24209 7590 05/01/2009 GUNNISON MCKAY & HODGSON, LLP 1900 GARDEN ROAD SUITE 220 MONTEREY, CA 93940				
EXAMINER PICH, PONNOREAY				
ART UNIT		PAPER NUMBER		
2435				
MAIL DATE		DELIVERY MODE		
05/01/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte:* EDUARD K. DE JONG

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Application No. 10/672,184  
Technology Center 2400

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Mailed: May 1, 2009

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Before Deborah L. Perry *Supervisory Paralegal Specialist, Review Team*  
Perry, *Supervisory Paralegal Specialist, Review Team.*

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received by the Board of Patent Appeals and Interferences on December 30, 2008. A review of the application revealed that it is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the Examiner to address the following matter(s) requiring attention prior to docketing.

**EXAMINER'S CONSIDERATION OF REPLY BRIEF**

A Reply Brief was filed on October 28, 2008, in response to the Examiner's Answer mailed August 29, 2008.

Title 37, Code of Federal Regulations, §41.43 states:

(a)(1)... the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

The Communication mailed December 30, 2008, was an improper acknowledgment of the Reply Brief, as it constitutes a Supplemental Examiner's Answer as per MPEP§ 1208, part II. A Supplemental Examiner's Answers requires a Director or designees approval.

**CONCLUSION**

Accordingly, it is ORDERED that the application is returned to the Examiner to:

1. vacate the Communication mailed December 30, 2008;
2. generate and mail either:
  - i. a revised Communication properly acknowledging to the Reply Brief dated October 28, 2008, in accordance with MPEP§ 1208, part II.; OR
  - ii. issue a Supplemental Examiner's Answer with the required signature (Technology Center Director or designee), if appropriate; and
3. for such further action as may be appropriate.

Application No. 10/672,184

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

DP/KMF

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